

REMARKS

This responds to the Office Action dated on July 10, 2007.

No claims are amended. Claims 1-19 are now pending in this application.

Objections to the Drawings

The drawings were objected to as failing to comply with 37 CFR 1.84(p)(5) as not including reference numbers 52, 200 and 250 in the description. Applicant has amended the specification to include a description of element 52. No new matter has been added. With regard to elements 200 and 250, the examiner is referred to the specification at page 10, lines 17 and 20. Withdrawal of the objections is respectfully requested.

§103 Rejection of the Claims

Claims 1-11, 16 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lindberg et al. (U.S. Patent No. 5,370,666) in view of Von Arx et al. (U.S. Patent No. 6,985,773). Claims 12 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lindberg et al. in view of Von Arx et al. and further in view of Hauser et al. (U.S. Patent No. 5,385,574). Claims 14, 15, 17 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lindberg et al. in view of Von Arx et al. as applied to claims 1, 16 and 18 above, and further in view of McDonald et al. (U.S. Patent No. 4,236,522). The rejections are traversed and reconsideration is respectfully requested.

In rejecting claims 1-11, 16, and 18, the Office Action states that “Lindberg does not teach the following claimed limitations taught by Von Arx: disablement of delivery of therapy (Col. 3 11. 56 - Col. 4 11. 9) and re-enablement of therapy (Col. 3 11. 12-55), disablement time interval specification via the telemetry interface (Col. 3 11. 12-1 7), magnetic switch therapy actuation (Col. 3 11. 32-38), and activity level therapy actuation (Col. 3 11. 47-54). It would have been obvious to one having ordinary skill in the art at the time of invention to modify Lindberg in view of Von Arx to protect the circuitry from foreseeable damaging levels of electromagnetic interference.” The limitations alleged to be taught by Von Arx are characterized in the quoted statement as being related to the enablement and disablement of the delivery of therapy. The cited portions of Von Arx, however, only relate to the enablement and disablement

(i.e., powering on and shutting down) of *telemetry circuitry*. Applicant does not believe that that the two situations are analogous. Disablement and re-enablement of tachyarrhythmia therapy as claimed in the present application is for the purpose of preventing such therapy from being erroneously triggered by electromagnetic interference (not, as alleged in the Office Action, to protect the circuitry). The powering on and shutting off of the telemetry circuitry described in Von Arx, on the other hand, is for the purpose of power conservation.

Applicant believes that no *prima facie* case of obviousness with respect to claims 1-11, 16, and 18 can be made by combining the Lindberg reference with the Von Arx reference. “(A) patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.” *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 82 USPQ2d 1385 (2007). Here, however, even combining the teachings of the cited references does not result in what the claims recite. As explained above, the Von Arx reference only deals with the powering on and shutting down of telemetry circuitry, not therapy delivery, which is altogether different. Furthermore, in view of the different purposes for which the telemetry circuitry is shut down in Von Arx and for which the therapy circuitry is disabled in the present application, nothing in either the Lindberg or Von Arx references would lead one of ordinary skill in the art to arrive at what is claimed.

For the reasons given above, Applicant submits that claims 1-11, 16, and 18 are patentable over the prior art of record. Applicant further believes that the recitations of dependent claims 12-15, 17, and 19 are neither taught nor suggested by the cited references in the context of their combination with the subject matter of claims 1, 16, or 18. Reconsideration and withdrawal of the rejections is respectfully requested.

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.111

Serial Number: 10/697,999

Filing Date: October 30, 2003

Title: TEMPORARY DISABLEMENT FEATURE FOR IMPLANTABLE DEVICE WITH ANTI-TACHYARRHYTHMIA FUNCTIONS

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CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (847) 432-7302 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date November 13, 2007

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 13th day of November 2007.

Kate Gannon

Name

Signature

